

EXHIBIT

#83

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
CASE NO. 07-15195(MS)
CHAPTER 11

In re BAYONNE MEDICAL CENTER, :

Debtor, :

COPY

BAYONNE MEDICAL CENTER, :

Debtor and :

Debtor-in-Possession; and :

ALLEN D. WILEN, in his :

capacity as Liquidating :

Trustee and Estate :

Representative for the Estate :

of Debtor, Bayonne Medical :

Center, :

DEPOSITION OF:

AVERY EISENREICH

VOLUME II

(Pages 188-271)

Plaintiff, :

-vs- :

BAYONNE/OMNI DEVELOPMENT, :

L.L.C., a New Jersey limited :

liability company; et al., :

Defendants. :

B E F O R E:

SHARON B. STOPPIELLO, a Certified Court
Reporter and Notary Public of the State of New
Jersey, at the offices of GRUEN & GOLDSTEIN, ESQS.,
1150 West Chestnut Street, Union, New Jersey, on
WEDNESDAY, JULY 28, 2010, commencing at 10:03 a.m.,
pursuant to Notice.

DepoLink
Court Reporting & Litigation Support Services
Phone (973) 353-9880 Fax (973) 353-9445
www.depoinklegal.com

1 Q. Did you approve of that designation
2 on your nursing homes, on the signs for your nursing
3 homes?

4 A. Did I personally approve it?

5 Q. Yes.

6 A. I don't think so.

7 Q. Did you tell anyone that's not an
8 accurate thing to say?

9 A. I never put thought into it. I never
10 took notice.

11 Q. Previously we talked about Exhibit
12 P-75, which is the confirm that you signed. And you
13 told us yesterday that you didn't write the date
14 3/17/06 on Page 2 of that confirm, right, do you
15 remember that?

16 A. Correct.

17 Q. Take a look at Exhibit P-24. I'll
18 represent to you this is a production by
19 WithumSmith+Brown, their workpapers. Do you see on
20 the fourth page of that exhibit another copy of the
21 confirm that you signed?

22 A. Yes.

23 Q. And this one has a slightly different
24 script for the date. And my question to you is:
25 Did you write that handwriting, 3/17/06, on the

1 second page of the February 6, 2006 confirm?

2 A. No.

3 Q. That's not your handwriting?

4 A. No.

5 Q. It is your signature; is that right?

6 A. I don't know.

7 Q. The signatures are slightly
8 different, right?

9 A. That's not my signature (indicating).

10 Q. So you're saying that the version of
11 the confirm in WithumSmith's papers, that's not your
12 "A"?

13 A. No.

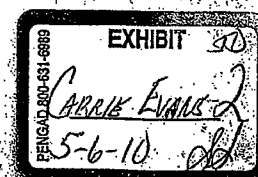
14 Q. But you did sign the one that's
15 marked as Exhibit P-75, which we previously talked
16 about, right?

17 A. Yes.

18 Q. And this was actually first produced
19 to us by your lawyers, with the little number 15
20 written there by, I guess, Mr. Honig. Have you ever
21 seen the one I showed you before in the WithumSmith
22 papers?

23 A. No. What number?

24 Q. 24. Now, you told us after signing
25 the confirm on or about March 17, 2006, you released



DR. EISENREICH
BAYVIEW MEDICAL CENTER

DEPOSITION
CARRIE EVANS

MAY MAY 6, 2010

EXHIBITS 20 THRU 39

TWO OF TWO

Fred R. Gruen, Esq.
GRUEN & GOLDSTEIN
1150 W. Chestnut Street
Union, New Jersey 07083
(908) 687-2030

Exhibit Carrie Evans

#24

Connie Tauber

Exhibit #83 - #84 Page 7 of 13

From: Evans, Carrie [CFleishell@bayonnemedicalcenter.org]
Sent: Thursday, March 09, 2006 10:34 AM
To: Avery Eisenreich
Subject: RE: Non binding pledge confirmation

Thanks Avery

-----Original Message-----

From: Avery Eisenreich [mailto:averye@omnihsnj.com]
Sent: Wednesday, March 08, 2006 10:13 PM
To: Evans, Carrie
Subject: Re: Non binding pledge confirmation

I will have my c.f.o. look into it

-----Original Message-----

From: Evans, Carrie <CFleishell@bayonnemedicalcenter.org>
To: Avery Eisenreich <averye@omnihsnj.com>
Sent: Wed Mar 08 16:37:28 2006
Subject: Non binding pledge confirmation

Hello my dear,

My auditors are looking for the signed pledge to close my audit ...
Has it been returned ?

Call - I hope you are well.

Carrie

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VOLUME I

(Pages 1-187)

Plaintiff, :

-vs- :

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Defendants. :

B E F O R E:

SHARON B. STOPPIELLO, a Certified Court
Reporter and Notary Public of the State of New
Jersey, at the offices of GRUEN & GOLDSTEIN, ESQS.,
1150 West Chestnut Street, Union, New Jersey, on
MONDAY, JULY 26, 2010, commencing at 11:08 a.m.,
pursuant to Notice.

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1 she asks you to call her. This is on March 20,
2 2006. "Call me: Two reasons. One, the confirm
3 sheet, and two, new business: - rehab stuff, I will
4 explain." Did you respond to that e-mail?

5 A. I don't know. I don't remember.

6 Q. Do you know what she meant by "rehab
7 stuff"?

8 A. I think she's talking about St.
9 Vincent's.

10 Q. What was St. Vincent's?

11 A. It was a hospital they were
12 attempting to acquire in Staten Island.

13 Q. What does "rehab" mean?

14 A. I have no idea.

15 Q. Had you sent the confirm back by
16 March 20, 2006?

17 A. I don't know.

18 Q. We have a signed version of the
19 confirm, which is Exhibit P-75. Sitting here today,
20 do you recall any conversations with Carrie Evans
21 about Exhibit P-75, which is the confirm you said
22 that does have your signature?

23 A. I spoke to her about it.

24 Q. Was it before or after you sent this
25 confirm out of your office?

1 A. Before.

2 Q. Was that in person or by telephone?

3 A. Telephone.

4 Q. What did you say in that
5 conversation?

6 A. First, I think it was telephone, I
7 don't remember.

8 Q. And it was with Carrie Evans? I'm
9 sorry to interrupt, but it was with Carrie Evans?

10 A. Yes. She reiterated many times that
11 it's a non-binding pledge. She reiterated the fact
12 that her auditors have her letter that she sent me.
13 I asked her if they understood the pledge
14 transaction, to which she said they do, and I
15 believed her.

16 Q. Do you recall anything else in that
17 conversation?

18 A. Not specific.

19 Q. Now, at this time, February of 2006,
20 Mr. Gruen was actively working for you with regard
21 to the deal, right, the Bayonne Medical Center
22 skilled nursing facility, right?

23 A. Actively? No. I probably passed on
24 some e-mails to him.

25 Q. Well, we have drafts of documents

1 financial statements of Bayonne Medical Center?

2 A. No, because it was actually told to
3 me, if I remember correctly, something to the effect
4 that it wasn't a donation to Bayonne Medical Center,
5 it was a donation to Bayonne Medical Center's
6 foundation, which was a separate entity than the
7 hospital.

8 Q. Did you tell WithumSmith+Brown you
9 didn't make a pledge of \$5,000,000 to Bayonne
10 Medical Center, but rather made a pledge of
11 \$5,000,000 to Bayonne Medical Center Foundation?

12 A. They didn't give me space to tell
13 them that. I'm sure they would have known that from
14 their client.

15 Q. You don't know what they know, do
16 you?

17 A. I don't know what they know.

18 Q. And they're asking you to tell them
19 what you know, right, by this confirm?

20 A. Bayonne is, okay.

21 Q. No. Well, Bayonne is asking you to
22 tell Withum what you know, right?

23 A. Yes.

24 Q. Did they not also invite you to make
25 any changes in the information you would provide a

1 little further down in that letter?

2 A. That's why I think I attached that
3 letter. I spoke to Carrie about it, she also said
4 they know about it.

5 Q. Know about what?

6 A. That she gave that letter to them.

7 Q. What letter?

8 A. The letter from Rob Evans. She
9 actually told me that that was their policy, the
10 auditors know their policy.

11 Q. Exhibit P-75, after the sentences I
12 just read to you, has the words "Date made:
13 October 21, 2005," right?

14 A. Yes.

15 Q. That's a reference to your
16 "contribution and promise to give to Bayonne Medical
17 Center," right?

18 A. It says "Date Made, Amount."

19 Q. The date indicated is the date of
20 your pledge, right?

21 A. Correct.

22 Q. And "Amount" is the amount of your
23 pledge, right?

24 A. Correct.

25 Q. And then it says, "Restrictions on